

REMARKS

The Office Action dated May 3, 2006 and the Advisory Action dated August 10, 2006 have been received and their contents carefully noted. By the above actions, claims 1-45 are pending in the application. In order to better define that which Applicants regard as the invention, claims 1, 8, 15-17, 30, and 44-45 have been amended. No new matter has been added. Support for the amendments is provided in the original claims, Figures 1-7, and related text of the specification.

In view of these actions and the following remarks, reconsideration of this application is now respectfully requested.

Rejections under 35 U.S.C. §102

Claims 1-4, 8-11, 15-17, 18-19, 30-32, and 44-45 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. App. No. 2002/0036654 to Evans et al. Applicants respectfully traverse this rejection, because Evans et al. fails to teach each and every element recited by the claims. In particular, independent claims 1, 8, and 16 now recite “assembling automatically a plurality of aggregate creative forms, including operating, by a computer, the aggregate creative definition, each of the plurality of aggregate creative forms comprising at least one computer-directed combination of a computer-selected subcreative from the plurality of subcreatives with the container.” Similarly, independent claim 15 recites “means for assembling automatically a plurality of aggregate creative forms, including means for operating, by a computer, the aggregate creative definition each of the plurality of aggregate creative forms comprising at least one computer-directed combination of a computer-selected subcreative from the plurality of subcreatives with the container.” In addition, independent claims 17, 30, and 45 now recite “assembling automatically a plurality of computer-determined aggregate creative forms, including operating, by a computer, the aggregate creative definition.” Likewise, independent claim 44 recites “means for assembling automatically a plurality of computer-determined aggregate creative forms, including means for operating, by a computer, the aggregate creative definition.”

As shown in FIG. 3 of the present specification, the step of “assembling the aggregate creative forms (step 80) in accordance with the definition” is a part of the “process for automatically generating aggregate creatives.” (See specification as filed, p. 11, lines 5-9.) This automated generation of aggregate creative forms occurs on the server side system 22 and is performed by the advertising system processor 26, which includes “any conventional computer, for example a personal computer, server or mainframe.” (See specification as filed, p. 9, lines 14-22.) Moreover, “an aggregate creative may be invoked as a program, populated as a template, or otherwise operated on by this assembly process 80 to select subcreatives and rotationally integrate those subcreatives into aggregate creative forms.” (See specification as filed, p. 12, lines 6-8.) As the present specification explains:

In accordance with the invention, the aggregate creative definition is interpreted automatically by an assembly process to generate a very large number of creative forms in a very short period of time. It will thus be seen that one advantage of the present invention over prior art, manual methods for assembling creatives, is the ability to automatically generate large numbers of aggregate forms from predetermined sets of data.

(See specification as filed, p. 14, line 31-p. 15, line 5.)

Accordingly, independent claims 1, 8, 15, and 16 recite an automatic generation of aggregate creative forms; a computer operating the aggregate creative definition; and a computer-directed combination of a computer-selected subcreative with a container. Meanwhile, independent claims 17, 30, 44, and 45 recite an automated assembly of computer-determined aggregate creative forms, as well as a computer operating the aggregate creative definition. In general, the independent claims recite that the entire step of “assembling ... a plurality of aggregate creative forms” is executed “automatically” by a computer, without user intervention or input.

In contrast to the automated assembly of aggregate creative forms by a computer as recited by the present claims, Evans et al. requires a user to manually execute the steps of selecting and combining the template and product references to create the final advertisement. Indeed, the Examiner’s interpretation makes particular

note of the user driven process taught by Evans et al. Referring to the cited reference, the Examiner states:

Paragraph 0048, FIG 3 discloses one embodiment of the overall process of creating an [sic] computer-created advertisement. First, the user selects an advertisement format then chooses a template based on the advertisement format. Then the user is given various product references options to choose from to display on the advertisement template. Each template may contain multiple ad areas (Paragraph 0069) which [sic] each ad area able to contain one or more product references (Paragraph 0068; Page 6, lines 5-14; Paragraph 0071. Since the template is customizable by the user, such as inputting new product ads and references onto the template (Paragraph 0079), it provides greater flexibility creating multiple advertisements.

(See Office Action, p. 3, last paragraph and p. 6, last paragraph, emphases added.)

Thus, even according to the Examiner, Evans et al. fails to disclose an automated assembly of advertisements that does not require actions by a user, as recited in the independent claims. The reference requires user-based decisions throughout the process of creating an advertisement, such as “selecting an advertisement format,” “select[ing] one of a plurality of templates,” “customiz[ing] the advertisement,” “customizing the template,” or “add[ing] custom text.” (See Evans et al, paragraphs [0063], [0065], and [0068].)

In particular, the user-based process of Evans et al. fails to teach, or even suggest, “a computer-selected subcreative,” “at least one computer-directed combination of a computer-selected subcreative . . . with the container,” or “a plurality of computer-determined aggregate creative forms,” as recited in the independent claims. For example, the Examiner explains that, in Evans et al., “the user selects a template” and “the user selects product references to be placed in the template.” (See Office Action, p. 15, last paragraph.) According to the Examiner, the computer begins to act “by incorporating the product references into the template” only after selection or “input action” by the user. (See Office Action, p. 15, last paragraph.) Assuming that the template corresponds to a container and the product references correspond to subcreatives as asserted by the Examiner, Evans et al. teaches that a user selects the subcreatives and that a user directs the combination of the user-selected subcreative with the container, in contrast to claims 1, 8, 15, and 16.

In addition, by using such user input, Evans et al. does not teach that the aggregate creative forms are determined by a computer, as recited in claims 17, 30, 44, and 45.

As the Examiner's own explanation points out, Evans et al. provides the user with options, flexibility, and opportunities to customize, which require user interaction and do not easily lend themselves to an automated process. Indeed, Evans et al. is concerned with designing the features of its system in a "user friendly way." (See Evans et al., paragraph [0068].) In this respect, Evans et al. teaches away from, and fails to even suggest, a computer, as opposed to a user, assembling a plurality of aggregate creative forms as recited in the present claims.

In fact, the method disclosed in Evans et al. uses the process of manually generating compound creatives that the present specification distinguishes as prior art. (See specification as filed, p. 4, lines 19-24.) As the present specification explains, such an "approach requires significant human intervention, and therefore does not scale well; manually trying to create many compound creatives with many subcreatives can be achieved only at a high cost." (See specification as filed, p. 4, lines 21-24.) Thus, "without the benefit of the present invention. . . , it is necessary to create each form of a creative manually – a very time- and labor-intensive process." (See specification as filed, p. 14, lines 29-31.)

Therefore, because Evans et al. fails to disclose the automatic assembly of a plurality of aggregate creative forms by a computer as recited by independent claims 1, 8, 15, 16, 17, 30, 44, and 45, Evans et al. fails to disclose each and every element recited by the claims. Thus, withdrawal of the rejection of independent claims 1, 8, 15, 16, 17, 30, 44, and 45 is in order and is respectfully requested. In addition, Applicants respectfully submit that dependent claims 2-4, 9-11, 18-19, and 31-32 are allowable, since they depend on allowable base claims 1, 8, 17, and 30.

Rejections under 35 U.S.C. §103

Claims 5, 12, 20-21, 24-27, 33-34, and 37-41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. App. No. 2002/0036654 to Evans et al., in further view of U.S. Pat. App. No. 2002/0188635 to Larson. In view of the amendments to independent claims 1, 8, 17, and 30, Applicants respectfully submit


that this rejection has been overcome and that dependent claims 5, 12, 20-21, 24-27, 33-34, and 37-41 are allowable at least for the reason of their dependency on allowable base claims 1, 8, 17, and 30.

Claims 6-7, 13-14, 22-23, 28-29, 35-36, and 42-43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. App. No. 2002/0036654 to Evans et al., in further view of U.S. Pat. App. No. 2002/0188635 to Larson, and in further view of U.S. Pat. App. No. 2002/0147645 to Alao et al. In view of the amendment to independent claims 1, 8, 17, and 30, Applicants respectfully submit that this rejection has also been overcome and that dependent claims 6-7, 13-14, 22-23, 28-29, 35-36, and 42-43 are allowable at least for the reason of their dependency on allowable base claims 1, 8, 17, and 30.

In light of the amendments to the claims and the remarks provided hereinabove, the present application is now in condition for allowance. However, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with Applicants' representative, then the Examiner is invited to contact the undersigned by telephone in order that further prosecution of this application can thereby be expedited.

Respectfully submitted,

NIXON PEABODY, LLP



Marc S. Kaufman
Reg. No. 35,212

NIXON PEABODY LLP
Customer No. 22204
401 9th Street, N.W. Suite 900
Washington, D.C. 20004-2128
(202) 585-8000